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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,060	06/06/2001	Masanori Toyofuku	209241US0	5644

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EXAMINER

SERGEANT, RABON A

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 12/07/2001

3

Please find below and/or attached an Office communication concerning this application or proceeding.

T-D-3

Office Action Summary

Application No.
09/874,060

Applicant(s)
Toyofuku et al.

Examiner
Rabon Sergeant

Art Unit
1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some* c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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DETAILED ACTION

1. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Firstly, applicants have claimed that the polyoxyethylene polyol has at least 3 hydroxyl groups. However, applicants then specify that the number of hydroxyl groups exceeds 3.0 but is less than 3.5. It is not clear that *n* is to pertain to mixtures, since the language refers back to the polyoxyethylene polyol having at least 3 hydroxyl groups.

Secondly, applicants have claimed that the polyoxyethylene polyol has an oxyethylene group content of at least 10 percent. However, applicants then specify that the content of oxyethylene groups is from 60 to 90 percent. Again, it is not clear that mixtures are contemplated, since the language refers back to the polyoxyethylene polyol. Furthermore, it is unclear how to reconcile the two vastly different oxyethylene group contents.

Thirdly, it is unclear how “substantially” is to modify “non-porous”. It is unclear with respect to the level of porosity the language provides for.

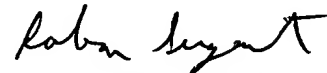
Fourthly, the significance of the language, “as an essential component”, is not clear. How does the language further modify or limit the claim?

Lastly, the language, “obtainable by”, renders the claims indefinite, because it cannot be determined when the product is “obtainably by” the recited process steps and when it is not. The language, “obtained by”, should be used.

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2. The position is taken that further examination with respect to the prior art is precluded until the first and second issues set forth within paragraph 1 have been addressed.

Any inquiry concerning this communication should be directed to R. Sergent at telephone number (703) 308-2982.



**RABON SERGENT
PRIMARY EXAMINER**

Sergent/af

December 6, 2001